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 FOR
 SENATE BILL NO. 1371

AN ACT

2 To repeal sections 208.568 and 208.574, RSMo,
 3 and to enact in lieu thereof eight new
 4 sections relating to the coordination of
 5 benefits for the Medicare Prescription Drug,
 6 Improvement and Modernization Act of 2003,
 7 with a termination date for a certain
 8 section.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
 10 AS FOLLOWS:

11 Section A. Sections 208.568 and 208.574, RSMo, are repealed
 12 and eight new sections enacted in lieu thereof, to be known as
 13 sections 208.568, 208.574, 208.580, 208.582, 208.584, 208.586,
 14 208.588, and 1, to read as follows:

15 208.568. 1. There is hereby created in the state treasury

1 the "Missouri Senior Rx Fund", which shall consist of all moneys
2 deposited in the fund pursuant to sections 208.550 to 208.571 and
3 all moneys which may be appropriated to it by the general
4 assembly, from federal or other sources.

5 2. The state treasurer shall administer the fund and credit
6 all interest to the fund and the moneys in the fund shall be used
7 solely by the commission for the Missouri Senior Rx program and
8 the division of aging for the implementation of the program for
9 seniors established in sections 208.550 to 208.571.

10 3. Notwithstanding the provisions of section 33.080, RSMo,
11 to the contrary, moneys in the fund shall [not] revert to the
12 credit of the [general revenue fund at the end of the biennium]
13 Missouri senior prescription drug plan fund created pursuant to
14 section 208.586, RSMo, following notice to the revisor of
15 statutes by the department of health and senior services that the
16 Medicare Prescription Drug, Improvement and Modernization Act of
17 2003 has been implemented.

18 208.574. The provisions of sections 208.550 to 208.571
19 shall [be reauthorized every four years] terminate following
20 notice to the revisor of statutes by the department of health and
21 senior services that the Medicare Prescription Drug, Improvement
22 and Modernization Act of 2003 has been implemented.

23 208.580. 1. For the purposes of sections 208.580 to
24 208.586, the following terms shall mean:

25 (1) "Eligible senior", any Missouri resident who is sixty-

1 five years of age or older, and who is a participant in the
2 Medicare Part D benefit, and whose income, as defined under P.L.
3 108-173, or any subsequent federal legislation altering or
4 replacing the same is:

5 (a) Equal to or greater than one hundred fifty percent of
6 the federal poverty level and less than two hundred percent of
7 the federal poverty level; or

8 (b) Less than one hundred fifty percent of the federal
9 poverty level and the individual does not qualify for Medicare
10 Part D low-income subsidies because the value of the individual's
11 assets exceeds that amount allowed for qualification pursuant to
12 P.L. 108-173;

13 (2) "2006 Standard drug benefit coverage gap", the
14 difference in prescription drug coverage spent each year by an
15 eligible senior:

16 (a) After the eligible senior has spent qualified
17 prescription drug expenses equal to the initial coverage limit as
18 defined in the Medicare Prescription Drug, Improvement and
19 Modernization Act of 2003; and

20 (b) Before the eligible senior has spent qualified
21 prescription drug expenses equal to the annual out-of-pocket
22 threshold as defined in the Medicare Prescription Drug,
23 Improvement and Modernization Act of 2003.

24 2. In order to partially fill the gap created due to the
25 enactment of the Medicare Prescription Drug, Improvement and

1 Modernization Act of 2003, P.L. 108-173, or any subsequent
2 federal legislation altering or replacing the same the "Missouri
3 Senior Prescription Drug Plan" is established within the
4 department of health and senior services. The Missouri senior
5 prescription drug plan shall be effective January 1, 2006.

6 3. The Missouri senior prescription drug plan is not an
7 entitlement. Benefits shall be limited to the level supported by
8 the moneys explicitly appropriated pursuant to this section. If
9 in any fiscal year the department projects that the total cost of
10 the plan will exceed the amount currently appropriated for the
11 plan, the department shall direct the prescription drug plan
12 sponsor to implement cost control measures to reduce the
13 projected cost. Such cost control measures may include, but are
14 not limited to, increasing the coinsurance outlined in subsection
15 5 of section 208.582. The Missouri senior prescription drug plan
16 is a payer of last resort.

17 4. Subject to appropriations and other available funds, the
18 Missouri senior prescription drug plan may pay up to seventy-five
19 percent of the 2006 standard drug benefit coverage gap of up to
20 two thousand eight hundred fifty dollars, which shall not exceed
21 two thousand one hundred thirty-eight dollars.

22 5. Applications for the Missouri senior prescription drug
23 plan shall be conducted jointly with applications for the
24 Medicare Part D benefit. The department shall establish an
25 annual enrollment and reenrollment period for the state plan

1 which shall correspond with the enrollment period for the federal
2 program as prescribed in P.L. 108-173 or any subsequent federal
3 legislation altering or replacing the same.

4 6. The Missouri senior prescription drug plan shall include
5 and provide coverage for only the prescription drugs that are
6 covered in the prescription drug plan sponsors' formulary
7 pursuant to the Medicare Prescription Drug, Improvement and
8 Modernization Act, P.L. 108-173 or any subsequent federal
9 legislation altering or replacing the same.

10 7. The Missouri senior prescription drug plan shall not
11 include coverage of the following drugs or classes of drugs, or
12 their medical uses:

13 (1) Agents when used for anorexia or weight gain;

14 (2) Agents when used to promote fertility;

15 (3) Agents when used for cosmetic purposes or hair growth;

16 (4) Agents when used for the symptomatic relief of cough
17 and colds;

18 (5) Prescription vitamins and mineral products, except
19 prenatal vitamins and fluoride preparations;

20 (6) Nonprescription drugs;

21 (7) Covered outpatient drugs which the manufacturer seeks
22 to require as a condition of sale that associated tests or
23 monitoring services be purchased exclusively from the
24 manufacturer or its designee;

25 (8) Barbiturates;

1 (9) Benzodiazepines.

2 8. The Missouri senior prescription drug plan shall also
3 exclude prescription drugs which are not "reasonable and
4 necessary" as defined pursuant to Section 1862(a) of P.L. 108-173
5 or any subsequent federal legislation altering or replacing the
6 same.

7 9. For the covered prescription drugs, the state shall not
8 be charged an amount in excess of the price charged pursuant to
9 the federal benefit in P.L. 108-173 or any subsequent federal
10 legislation altering or replacing the same.

11 208.582. 1. Under the Missouri senior prescription drug
12 plan, the department shall have the authority to:

13 (1) Contract with prescription drug plan sponsors for the
14 coordination of the Missouri senior prescription drug plan with
15 Medicare Part D;

16 (2) Contract with prescription drug plan sponsors for the
17 annual reenrollment and verification of eligibility of existing
18 enrollees and enrollment and verification of eligibility of new
19 applicants for the Missouri senior prescription drug plan;

20 (3) Adjust the fee payments for prescription drug plan
21 sponsors;

22 (4) Set and adjust coinsurance at different amounts;

23 (5) Coordinate with the Missouri Senior Rx commission to
24 avoid any duplication in coverage and to ensure a smooth
25 transition between the senior Rx program and the Missouri senior

1 prescription drug plan; and

2 (6) Perform any other function necessary for the
3 coordination of the Missouri senior prescription drug plan with
4 Medicare Part D.

5 2. The department also shall apply to the United States
6 Department of Health and Human Services for any applicable
7 federal waivers or public or private grants.

8 3. The department shall have rulemaking authority for the
9 implementation and administration of sections 208.580 to 208.586.
10 Any rule or portion of a rule, as that term is defined in section
11 536.010, RSMo, that is created under the authority delegated in
12 this section shall become effective only if it complies with and
13 is subject to all of the provisions of chapter 536, RSMo, and, if
14 applicable, section 536.028, RSMo. This section and chapter 536,
15 RSMo, are nonseverable and if any of the powers vested with the
16 general assembly pursuant to chapter 536, RSMo, to review, to
17 delay the effective date, or to disapprove and annul a rule are
18 subsequently held unconstitutional, then the grant of rulemaking
19 authority and any rule proposed or adopted after August 28, 2004,
20 shall be invalid and void.

21 4. The department shall request that the state of Missouri
22 be included in the Medicare Part D state pharmaceutical
23 transition commission.

24 208.584. 1. Subject to appropriations, there is hereby
25 established the "Missouri Senior Prescription Drug Plan

1 Clearinghouse" within the Missouri senior prescription drug plan.
2 The department shall direct the state health insurance assistance
3 program (SHIP) to administer the clearinghouse activities. The
4 purpose of the clearinghouse shall include, but not be limited
5 to:

6 (1) Assist all Missouri residents in accessing prescription
7 drug programs;

8 (2) Educate the public on quality drug programs and
9 cost-containment strategies; and

10 (3) Serve as a resource for pharmaceutical benefit issues.

11 2. The administration of the clearinghouse shall include,
12 but not be limited to:

13 (1) Providing a one-stop-shopping clearinghouse for all
14 information for seniors regarding prescription drug coverage
15 programs and health insurance issues;

16 (2) Targeting outreach and education including print and
17 media, social service and health care providers to promote the
18 plan and clearinghouse;

19 (3) Maintaining a toll-free 800-phone number staffed by
20 trained customer service representatives; and

21 (4) Providing information on eligibility, enrollment, and
22 benefits for the Missouri senior prescription drug plan and the
23 Medicare Prescription Drug, Improvement and Modernization Act,
24 P.L. 108-173 or any subsequent federal legislation altering or
25 replacing the same, on the department of health and senior

1 services Internet web site.

2 208.586. 1. There is hereby created in the state treasury
3 the "Missouri Senior Prescription Drug Plan Fund", which shall
4 consist of all moneys deposited in the fund pursuant to sections
5 208.580 to 208.588 and all moneys which may be appropriated to it
6 by the general assembly, from federal or other sources.

7 2. The state treasurer shall be the custodian of the fund
8 and credit all interest to the fund and the moneys in the fund
9 shall be used solely by the department of health and senior
10 services for the coordination of the Missouri senior prescription
11 drug plan established in sections 208.580 to 208.588 with
12 Medicare Part D.

13 3. Notwithstanding the provisions of section 33.080, RSMo,
14 to the contrary, moneys in the fund shall not revert to the
15 credit of the general revenue fund at the end of the biennium.

16 208.588. The provisions of sections 208.580 to 208.586
17 shall sunset August 28, 2007.

18 Section 1. Nothing in sections 208.580 to 208.586, RSMo,
19 shall be construed by any court of this state to require any
20 payment or transfer of state revenue in that fiscal year beyond
21 the amount appropriated by the general assembly for that same
22 fiscal year.